

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

ROSSIE C. POLK, #1851795,

Plaintiff,

v.

WARDEN JOHN MCDANIAL, et al.,

Defendants.

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Case No. 6:21-cv-296-JDK-KNM

**ORDER ADOPTING THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Rossie Polk, an inmate of the Texas Department of Criminal Justice, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983, alleging violations of his constitutional rights. The case was referred to United States Magistrate Judge K. Nicole Mitchell for findings of fact, conclusions of law, and recommendations for the disposition of the case.

On November 19, 2021, the Magistrate Judge ordered service upon and a response from Defendant Husbrand. Docket No. 26. On that same day, the Magistrate Judge submitted a Report and Recommendation that Defendants McDaniel and “Hodge Administration Top Supervisor” be dismissed as defendants in this action, along with any official-capacity claims against Defendant Husbrand, pursuant to 28 U.S.C. § 1915A(b). Docket No. 27. A copy of this Report was mailed to Plaintiff, who received it on November 24, 2021 (Docket No. 32). Plaintiff did not file written objections to the Report within the time provided.


This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law. *Douglass v. United Servs. Auto. Ass’n*, 79 F.3d 1415, 1430 (5th Cir.

1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days).

Here, Plaintiff did not object in the prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews her legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").

Having reviewed the Magistrate Judge's Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 27) as the findings of this Court. It is therefore **ORDERED** that Defendants McDaniel and "Hodge Administration Top Supervisor" are dismissed from this suit, as well as any official-capacity claim against the remaining Defendant.

So **ORDERED** and **SIGNED** this **11th** day of **January, 2022**.



JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE